

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

THE CITY OF HUNTINGTON,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

CABELL COUNTY COMMISSION,

Plaintiff,

v.

CIVIL ACTION NO. 3:17-01665

AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Federal Rule of Civil Procedure 42(a) provides:

If actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.

Consolidation decisions lie within the discretion of the court.

See North Carolina Natural Gas Corp. v. Seaboard Surety Corp.,

284 F.2d 164, 167 (4th Cir. 1960); see also A/S J. Ludwig

Mowinckles Rederi v. Tidewater Construction Corp., 559 F.2d 928,

933 (4th Cir. 1977) ("District courts have broad discretion under F. R. Civ. P. 42(a) to consolidate causes pending in the same district."). Furthermore, "[a] motion to consolidate is not required; the court may invoke Rule 42(a) *sua sponte*." Miller v. United States Postal Serv., 729 F.2d 1033, 1036 (5th Cir. 1984).

It appears to the court that consolidation of these cases is warranted because not only would consolidation promote judicial economy, but it would also reduce the financial and other burdens imposed on the parties and their witnesses. In so concluding, the court finds: 1) both cases involve common questions of fact; 2) both cases involve common questions of law; and 3) the parties will not be prejudiced by consolidation of the two actions.*

Based on the foregoing, the court **ORDERS** these two cases **CONSOLIDATED**. **Civil Action No. 3:17-01362** is hereby designated as the lead case. Having consolidated the cases, further filings should bear the caption of both cases but documents need only be filed in the lead case.

The Clerk is directed to send copies of this Memorandum Opinion and Order to counsel of record.

* By Order entered on January 28, 2020, the court informed the parties of its intent to consolidate these cases for administrative purposes. Any objection to consolidation was to be filed by February 4, 2020. None of the parties filed an objection.

IT IS SO ORDERED this 7th day of February, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge